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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE, Plaintiff and Respondent, v. KEITH J. PAGE, Defendant and Appellant.	B211445 (Los Angeles County Super. Ct. Nos. KA078896 and TA090349)

APPEAL from a judgment of the Superior Court of Los Angeles County. George Genesta, Judge. Affirmed.

Joseph T. Tavano, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Mary Sanchez and Michael J. Wise, Deputy Attorneys General, for Plaintiff and Respondent.

Appellant Keith J. Page (Page) appeals his convictions for driving under the influence of alcohol or drugs (Veh. Code, § 23152, subd. (a)), possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)), and driving on a suspended or revoked license (Veh. Code, § 14601.2, subd. (a)). He raises the following arguments on appeal: (1) the trial court erred in admitting Page's pre-arrest and post-arrest statements to law enforcement; (2) the evidence was insufficient to support Page's convictions for driving under the influence of drugs and possession of a controlled substance; (3) the trial court may have abused its discretion in determining there was no discoverable material in the arresting officer's personnel file; and (4) the trial court improperly calculated certain penalty assessments at sentencing. We affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

I. The Prosecution's Evidence

On March 23, 2007, at approximately 4:30 p.m., the Los Angeles County Fire Department was called to the scene of a solo car accident on the 105 Freeway. When firefighter paramedic Matthew Heard arrived with his unit, he observed Page walking away from the accident scene. Page was walking erratically, moving in a weaving manner on the carpool lane of the freeway. Heard and three other firefighters approached Page to assess whether he needed medical attention, but Page was uncooperative and did not answer any of their questions. Page was also combative, flailing his arms and legs around in an attempt to get away. Concerned Page might run into oncoming traffic, Heard and three or four other firefighters forcibly restrained him, and held him to the ground until he could be safely strapped onto an ambulance gurney. The ambulance transported Page to Martin Luther King Hospital.

California Highway Patrol (CHP) Officer Jacques Morlet responded to the scene of the accident at 4:50 p.m. He observed a fire truck and ambulance blocking the carpool lane of the freeway, and an unoccupied Ford Thunderbird parked on the shoulder of the freeway. Officer Morlet was advised that the car had been moved by other CHP officers prior to his arrival. The paramedics also explained that they were transporting a person

believed to be the driver of the car to the hospital for further evaluation. Officer Morlet never saw Page at the accident scene.

While at the scene, Officer Morlet observed that the Ford Thunderbird had damage along the left bumper and headlight assembly, including scrapes consistent with the car hitting a cement wall. Upon further investigation, Officer Morlet determined that the area of impact was the center median of the freeway. In an inventory search of the car, officers recovered a small amber-colored vial from the center console. A chemical analysis later confirmed that the vial contained .2 milliliters of liquid phencyclidine (PCP). Officers also found a Visine eyedropper bottle in the center console and an open can of beer in the backseat. After running a license plate check, Officer Morlet learned that Page was the registered owner of the car.

Officer Morlet and his field training officer arrived at Martin Luther King Hospital at approximately 5:15 p.m. Upon his arrival, Officer Morlet saw Page lying in a hospital gurney in the hallway of the emergency room. His torso, wrists, and ankles were in restraints. Hospital staff members were attempting to secure the restraints as Page resisted and struggled to remove them. Officer Morlet noted that Page was acting in a very combative and aggressive manner, and that these symptoms were consistent with a person under the influence of PCP. Because Page was resisting the hospital staff, Officer Morlet and his partner assisted them in restraining Page by grabbing his wrists as staff members secured the gurney straps. Officer Morlet did not assist in restraining Page in any other way. Once he approached Page, Officer Morlet smelled a strong chemical odor coming from his breath and body. Page's eyes were bloodshot and watery, and his face was red and sunburned, but he appeared to be alert.

Officer Morlet began conducting an investigation to determine if Page had been driving under the influence of alcohol or drugs. During his preliminary questioning, he noticed that Page's speech was mumbled and slurred. Officer Morlet asked Page if he had anything to drink and Page admitted that he had two 16-ounze beers at 3:00 in the afternoon. Officer Morlet also inquired whether Page had been driving the car that was found on the freeway, and Page acknowledged that he was driving the car and was

headed to Las Vegas. In response to Officer Morlet's questions about his medical history, Page reported that he did not have any injuries, illnesses, or impairments, had not undergone any recent surgeries, and was not currently under a doctor's care.

Officer Morlet asked Page if the vial found in the car contained PCP. Page answered, "Yes." Officer Morlet then asked if Page had used the PCP, and Page admitted he had used it at 3:00 p.m. When questioned about the accident, Page told Officer Morlet that he was driving to Las Vegas and thought he may have fallen asleep when his car hit the freeway barrier. Page did not know where he was on the freeway when the accident occurred and did not know why he was in the hospital. He denied having car problems prior to the accident. While being questioned by Officer Morlet, Page continued to behave in a combative manner and at times tried to remove the restraints.

Due to the restraints, Officer Morlet was limited in the field sobriety tests that he could conduct at the hospital. He was able to administer the horizontal and vertical gaze nystagmus tests, which are designed to detect involuntary eye movement associated with PCP use. He also gave Page a breathalyzer test with a hand-held preliminary alcohol screening device. The result of the breathalyzer test was negative for alcohol. However, in each of the nystagmus tests, Page demonstrated a distinct and sustained jerking of the eyes.

Following the field sobriety tests, Officer Morlet formed the opinion that Page had been driving under the influence of PCP. He based his opinion on the results of the nystagmus tests, Page's objective symptoms of PCP use, Page's admissions that he had been driving the car, and the vial of PCP found in the car. Based on his observations at the accident scene, Officer Morlet also believed that Page had made an unsafe driving maneuver which caused his car to crash into the median. Officer Morlet placed Page under arrest at 5:54 p.m., and advised Page of his *Miranda*[1] rights at 6:10 p.m. Page

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[1] *Miranda v. Arizona* (1966) 384 U.S. 436.

agreed to waive his *Miranda* rights at that time. Officer Morlet then turned the investigation over to CHP Officer Ryan Carroll, a drug recognition expert who was called to the hospital to conduct a drug evaluation of Page.

Officer Carroll was certified in detecting persons under the influence of controlled substances, including PCP. At trial, Officer Carroll described PCP as a dissociative anesthetic which can give the user an out-of-body feeling and cause him or her to feel resistant to physical pain. He explained that the effects of PCP typically last from four to six hours, depending upon the amount of drug used and the tolerance of the person using it. When asked how PCP can affect the ability to drive, Officer Carroll answered, "[D]riving is divided attention. You have to concentrate on several things at one time, and PCP inhibits that by making the person -- they're experiencing it, but not really experiencing it." Prior to examining Page, Officer Carroll had observed four or five evaluations of persons under the influence of PCP. Page was the first or second PCP evaluation that Officer Carroll personally conducted.

Officer Carroll began his evaluation of Page at 6:25 p.m. in a curtained area of the emergency room. He initially asked general health questions. In his answers, Page indicated that he did not have any physical impairments and was not taking any medications. He denied that he had high blood pressure or had suffered any serious head injuries. During his evaluation, Officer Carroll observed that Page's eyes were red, bloodshot, and watery. He also noticed that Page was perspiring and had a chemical odor associated with PCP on his breath and body. Officer Carroll described Page's behavior as cyclical. At times, Page would be cooperative and calmly answer questions, and then would suddenly become combative, resist the restraints, and speak incoherently. Page also had some repetitive and non-responsive speech. Officer Carroll believed that Page's objective symptoms were consistent with a person under the influence of PCP.

Officer Carroll could only conduct a limited evaluation of Page because he did not feel Page could be safely released from the restraints for more extensive testing. As part of his evaluation, Officer Carroll was able to administer the horizontal and vertical gaze nystagmus tests. Page's eyes showed a lack of smooth pursuit during the horizontal gaze

test and a lack of convergence during the vertical gaze test. In addition, his pulse rate and blood pressure were both elevated. On the other hand, Page was able to complete the Rhomberg counting test and his body temperature, pupil size, and reaction to light were all normal. Officer Carroll identified Page's horizontal and vertical gaze nystagmus as well as his elevated pulse rate and blood pressure as possible symptoms of PCP use. After conducting the field sobriety tests, Officer Carroll asked Page if he had used PCP, and Page initially denied using it. Officer Carroll then showed Page the vial found in his car and asked Page what it was. Page admitted that it was PCP and that he had used the drug at 3:00 p.m. At that point, Officer Carroll formed the opinion that Page was under the influence of PCP. Officer Carroll based his opinion on Page's objective and clinical symptoms, his various statements to the police, and the vial of PCP found in his car.

At 7:30 p.m., Officer Morlet advised Page that he was required by state law to submit to a chemical test to determine his alcohol and drug level. Officer Morlet provided Page with a written admonition on the implied consent law, which gave him the option of a breath, blood, or urine test for drugs. Because Page was in restraints and receiving medical treatment at the hospital, Officer Morlet informed him that the only test available to him was a blood test. Officer Morlet also warned Page that if he refused to submit to the required test, his driving privilege would be suspended or revoked. Page did not agree to a blood or breath test, but told Officer Morlet that he would take a urine test. However, based on Page's combative behavior and possible PCP use, Officer Morlet believed that it would not be safe to release Page from the restraints so that he could provide a urine sample. Page refused to consent to any other chemical test. Officer Morlet and his field training officer later left the hospital between 8:30 and 9:00 p.m. When the officers left, Page still had not been evaluated by an emergency room physician.

At trial, the parties stipulated that Page's driver's license had been revoked for driving under the influence of alcohol or drugs. The parties also stipulated that the revocation was in effect on March 23, 2007, and that Page had knowledge of the revocation prior to that date.

II. The Defense Evidence

Lydia Ortez was an emergency room nurse at Martin Luther King Hospital. She had been a registered nurse for 10 years and had received lecture training with respect to persons under the influence of a controlled substance, including PCP. She estimated that she had treated between 25 and 30 patients under the influence of PCP, and was familiar with the symptoms exhibited by PCP users based on her clinical training and experience. On March 23, 2007, Page was in Nurse Ortez's care for approximately 20 minutes. At trial, Nurse Ortez testified that she had no independent recollection of Page or her treatment of him, and was relying solely on her notes from that day.

According to her notes, Nurse Ortez performed a medical assessment of Page at 6:00 p.m., which included a short neurological exam to test for his level of consciousness, loss of sensation, and extent of pain. She found Page to be alert and oriented to time, place, and events. He was calm and cooperative during the exam and did not exhibit any signs of distress. Page was not excessively sweaty, nor was he erratic or combative with Nurse Ortez at any time. He allowed her to perform her assessment and did not appear to be a threat to her or other medical personnel. Nurse Ortez did not observe any horizontal or vertical gaze nystagmus in Page. If she had observed nystagmus or unusual behavior, she would have noted it in her chart. Based on her notes, Nurse Ortez testified that Page did not seem to be under the influence of PCP because he did not exhibit the usual symptoms, although his heart rate and blood pressure were elevated. Nurse Ortez admitted that she did not perform any specific tests on Page to determine if he had used PCP, and did not know whether he was actually under the influence of PCP while in her care.

Dr. Yvonne Mayweather was an emergency room physician at Martin Luther King Hospital with nine years of experience. She had received classroom and clinical training regarding the symptoms of persons under the influence of PCP, and saw an average of one PCP user per day during her training. Dr. Mayweather estimated that she personally had treated approximately 80 patients under the influence of PCP. She identified the symptoms of PCP as including elevated vital signs, hallucinations, trembling, sweating,

nystagmus, and unusual strength. Based on her training and experience, Dr. Mayweather believed she would be able to recognize a person under the influence of PCP. On March 23, 2007, Dr. Mayweather performed a physical examination of Page between 8:30 and 9:00 p.m. Like Nurse Ortez, Dr. Mayweather had no independent recollection of treating Page and was relying solely on her notes in testifying at trial.

According to Dr. Mayweather's notes, Page had a normal neurological exam. He was alert and oriented to person, place, and time. He did not report any hallucinations, delusions, or memory loss. His pupils were equal and reactive to light. The notes did not indicate whether Page was given a horizontal or vertical gaze nystagmus test, but Dr. Mayweather would have noted any nystagmus if she had observed it. Dr. Mayweather also would have documented any abnormal behavior exhibited by Page during the exam, and her notes did not reflect that Page was agitated, combative, disoriented, or incoherent. Based on her notes, Dr. Mayweather testified that Page did not appear to be under the influence of PCP at the time of her assessment. Dr. Mayweather acknowledged, however, that she did not know whether Page was under the influence of PCP between 5:00 and 7:00 p.m. because she never saw him during that period.[2] Dr. Mayweather also explained that she could only conduct a limited examination of Page because he was no longer in police custody and did not want any treatment. At approximately 9:00 p.m., Page signed out of the hospital against medical advice.

Page testified on his own behalf at trial. According to Page, on March 23, 2007, he was with his female friend, Coco. Coco was driving Page's Ford Thunderbird and Page was in the passenger seat when the car's fuel pump suddenly stopped working. Coco parked the car along the right shoulder of the freeway. When Page was unable to

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[2] As part of her examination of Page, Dr. Mayweather reviewed the notes of Nurse Morel, who saw Page at 5:05 p.m. when he was admitted to the emergency room. According to Nurse Morel's notes, Page was oriented as to person, place and time. His mental status was normal, but he was anxious and agitated on scene. Page's heart rate and blood pressure were also elevated which, according to Dr. Mayweather, could be indicative of being under the influence of PCP.

repair the car, he began walking along the right shoulder in search of a call box because his cell phone was discharged. After 20 minutes, Page returned his car and saw Coco leaving in another vehicle that had stopped for her in the carpool lane. Page ran across all lanes of traffic toward Coco and yelled at her to return his car keys. Coco told Page that she left his keys in his car. Page began walking along the left shoulder of the carpool lane because he did not want to cross traffic again. He was still searching for a call box when emergency services personnel arrived. They told Page that they wanted to take him to the hospital, but Page did not believe there was anything wrong with him and wanted to attend to his car. The paramedics placed Page in restraints when he refused to voluntarily go with them.

At trial, Page recounted that upon arriving at the hospital, two officers held him down when he tried to remove the restraints. Page denied telling Officer Morlet that he had been driving his car at the time of the accident or that he had used alcohol or drugs that afternoon. He also denied making any admissions to Officer Carroll. Page testified that he never told Officer Carroll that he had taken PCP or that the vial found in his car belonged to him. According to Page, the vial actually belonged to Coco and he was not aware that it was in his car or contained PCP. With respect to his physical symptoms, Page testified that he was being treated for high blood pressure at the time of the accident, but the officers never asked him if he had any preexisting conditions. He also stated that he had agreed to submit to a urine test while at the hospital, but was only offered a blood test by the officers. Page admitted that he later signed out of the hospital without providing a urine sample. He denied, however, that he had been under the influence of PCP.

III. Verdict and Sentencing

Following a four-day trial, the jury found Page guilty of driving under the influence of alcohol or drugs (Veh. Code, § 23152, subd. (a)), possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)), and driving when the privilege has been suspended or revoked (Veh. Code, § 14601.2, subd. (a)). At the sentencing hearing, the trial court sentenced Page to a total prison term of eight years and eight months. The

trial court also imposed a laboratory analysis fee and a drug program fee, plus penalty assessments on those fees. Page filed a timely notice of appeal.

DISCUSSION

I. Motion to Suppress Statements to Police

Page argues on appeal that the trial court improperly denied his pretrial motion to suppress the statements that he made to Officers Morlet and Carroll while being treated at the hospital. Page contends that his pre-*Miranda* statements to Officer Morlet were inadmissible because he was subjected to a custodial interrogation without first being advised of his *Miranda* rights. Page asserts that his post-*Miranda* statements to Officer Carroll also should have been suppressed because he could not knowingly and voluntarily waive his *Miranda* rights if he was under the influence of PCP. We conclude that neither claim has merit.

A. Relevant Proceedings

At a pretrial hearing before the trial court, Officer Morlet testified about the scope of his investigation of Page. According to Officer Morlet, when he first responded to the report of a traffic collision on the freeway, he was told that Page had been placed in an ambulance for transport to the hospital. The emergency services personnel at the scene explained that they had to restrain Page because he was running across lanes of traffic, acting in a belligerent and erratic manner, and was possibly a danger to himself or others. They also indicated that Page might be under the influence of a stimulant. Officer Morlet never saw Page at the scene, but he did participate in an inventory search of Page's car, which revealed an open can of beer and a vial of liquid resembling PCP.

Officer Morlet went to the hospital to investigate whether Page had been driving under the influence of drugs. He first encountered Page in the hallway of the emergency room as Page was being restrained by hospital personnel. Page was already strapped to a gurney from the torso, wrists, and legs when Officer Morlet arrived. Because Page was struggling with the hospital staff, Officer Morlet and his partner assisted in restraining Page by placing their hands on his wrists as staff members secured the restraints. After

the restraints were secured, Officer Morlet began performing a standard DUI investigation by asking Page pre-field sobriety questions, including whether Page had used alcohol or PCP. Officer Morlet testified that these were the same questions he would have asked if he had detained Page at the accident scene.

Officer Morlet observed that Page was sunburned, severely sweating, and had a strong chemical odor on his breath and body. His eyes were bloodshot and glassy, and his speech was mumbled and slurred. While answering the officer's questions, Page was still combative and attempted to remove the restraints. Page was also repetitive with some of his statements, repeatedly telling Officer Morlet to "remove the straps" and "get me out of here." Officer Morlet described Page's behavior during the interview as "very unusual" and "bizarre." After asking his preliminary questions, Officer Morlet administered field sobriety tests to Page. Based on his investigation, Officer Morlet believed that Page had been driving under the influence of PCP.

At that point, Officer Morlet placed Page under arrest and advised him of his *Miranda* rights. Officer Morlet testified that he advised Page of each *Miranda* right, and Page affirmatively responded that he understood each right. Officer Morlet also stated that he made proper eye contact with Page during the *Miranda* advisement to ensure that Page was able to comprehend every statement. He did not have to repeat any of the questions, and Page appeared to understand all of the questions that were asked. After advising Page of his *Miranda* rights, Page verbally agreed to waive his rights and to talk to the police. Officer Carroll then questioned Page.

B. Pre-*Miranda* Statements to Officer Morlet

Page asserts that his statements to Officer Morlet were inadmissible because they were made without a prior advisement of his *Miranda* rights. The advisement of *Miranda* rights is only required when a person is subject to a custodial interrogation. (*People v. Ochoa* (1998) 19 Cal.4th 353, 401.) Custodial interrogation has two components. First, the person being questioned must be in custody. Second, the questioning must constitute an interrogation. (*People v. Mickey* (1991) 54 Cal.3d 612, 648; *People v. Mosley* (1999) 73 Cal.App.4th 1081, 1088.) "The phrase 'custodial

interrogation' is crucial. The adjective [custodial] encompasses any situation in which 'a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.' (*Miranda v. Arizona*, *supra*, 384 U.S. at p. 444.)" (*People v. Mickey*, *supra*, at p. 648.) "Absent 'custodial interrogation,' *Miranda* simply does not come into play. [Citations.]" (*Ibid*.; see also *People v. Mosley*, *supra*, at p. 1091 ["The police may question a suspect without violating any principles set forth in *Miranda* as long as the person being spoken to is not in custody."].)

The test for whether a person was in custody is objective. (*People v. Leonard* (2007) 40 Cal.4th 1370, 1400; *People v. Stansbury* (1995) 9 Cal.4th 824, 830.) "[T]he pertinent inquiry is whether there was '"'a "formal arrest or restraint on freedom of movement" of the degree associated with a formal arrest.'"' [Citation.]" (*People v. Leonard*, *supra*, at p. 1400.) Where no formal arrest has taken place, the pertinent question is "whether a reasonable person in defendant's position would have felt he or she was in custody." (*People v. Stansbury*, *supra*, at p. 830.) An officer's undisclosed focus of suspicion is "not relevant" to the custody determination. (*Stansbury v. California* (1994) 511 U.S. 318, 326.) "[I]t is the objective surroundings, and not any undisclosed views, that control the *Miranda* custody inquiry." (*Id.* at p. 325.)

The question of whether a defendant was in custody for *Miranda* purposes is a mixed question of law and fact. (*People v. Ochoa*, *supra*, 19 Cal.4th at p. 401.) "When reviewing a trial court's determination that a defendant did not undergo custodial interrogation, an appellate court must 'apply a deferential substantial evidence standard' [citation] to the trial court's factual findings regarding the circumstances surrounding the interrogation, and it must independently decide whether, given those circumstances, 'a reasonable person in [the] defendant's position would have felt free to end the questioning and leave' [citation]." (*People v. Leonard*, *supra*, 40 Cal.4th at p. 1400.)

In a factually similar case, *People v. Mosley*, *supra*, 73 Cal.App.4th at p. 1088, the defendant claimed his pre-*Miranda* statements to law enforcement while in an ambulance should have been excluded because he was in custody. Following a drive-by shooting, the defendant was being treated in an ambulance for a gunshot wound when officers

arrived on the scene. (*Id*. at p. 1085.) The investigating officer did not intend to arrest the defendant at that time, but wanted to determine what had occurred. (*Ibid*.) As the paramedics attended to the defendant, the officer asked him what happened and how he had been shot. The defendant's answers implicated him in the shooting. (*Id*. at p. 1086.)

The Court held that the defendant was not in custody for *Miranda* purposes when he was questioned by the police in the ambulance. (*People v. Mosley*, *supra*, 73 Cal.App.4th at pp. 1090-1091.) As the Court reasoned, "[a]ny restraint of defendant's freedom of action was caused by the need to treat his gunshot wound, which was still bleeding and was actively being treated during the interview. He had not been placed under arrest because the police did not know what had happened that caused him to be shot. . . . We also note that the questioning was not accusatory or threatening, that defendant was not handcuffed, that no guns were drawn, and that defendant was about to be transported to a hospital and not to a police station or jail." (*Id*. at p. 1091.) Based on the totality of the circumstances, the Court concluded that a reasonable person in the defendant's position would not have believed he or she was in custody. (*Ibid*.; see also *United States v. Martin* (9th Cir. 1986) 781 F.2d 671, 673 [defendant was not in custody when questioned by police at the hospital because there were "no facts to indicate law enforcement officials were in any way involved in [defendant's] hospitalization or did anything to extend [defendant's] hospital stay and treatment"].)

In this case, Page was not in custody for *Miranda* purposes when he was interviewed by Officer Morlet at the hospital prior to his arrest. The interview took place in the public hallway of a hospital emergency room where Page had been transported for further medical evaluation. Officer Morlet never saw Page at the scene of the accident, nor did he direct the paramedics to take Page to the hospital or to place him in restraints. Although Page was restrained to a gurney while being questioned, "'the bare fact of physical restraint does not itself invoke the *Miranda* protections.' [Citation.]" (*People v. Mosley*, *supra*, 73 Cal.App.4th at p. 1090.) Page already had been placed in the restraints by hospital personnel when Officer Morlet arrived to interview him. Officer Morlet and his partner merely assisted the hospital staff in securing the restraints because Page was

engaging in erratic behavior and forcibly trying to remove them. Any restraint on Page's freedom of movement was therefore caused by the need to protect the hospital staff from his combative behavior, and was not done at the direction of the police.

The record also reflects that when Officer Morlet began interviewing Page as part of his DUI investigation, Page was neither under arrest nor handcuffed. There is no evidence that Officer Morlet ever drew his weapon during the interview or otherwise employed any threatening or intimidating tactics. The questions posed to Page were not aggressive or accusatory in nature, but were standard inquiries in a DUI investigation. In addition, Officer Morlet and his partner were the only officers present for the interview, and Officer Morlet was the only one who asked Page any questions. Contrary to Page's claim, the officers' knowledge that an open can of beer and a substance resembling PCP had been recovered from Page's car did not transform the investigative interview into a custodial interrogation. Because custody "depends on the objective circumstances of the interrogation, not on the subjective views harbored by either the interrogating officers or the person being questioned," Officer Morlet's mere suspicion that Page may have been driving under the influence of alcohol or drugs is not pertinent to the *Miranda* custody inquiry. (*Stansbury v. California*, *supra*, 511 U.S. at p. 323.)

Based on the totality of the circumstances, a reasonable person in Page's position would not have considered himself to be in custody when questioned by Officer Morlet. Rather, the evidence supports the conclusion that Page was in the care and custody of the emergency room staff during the interview and that his physical confinement was for the safety of the staff members providing treatment. The trial court accordingly did not err in admitting into evidence Page's pre-*Miranda* statements to Officer Morlet.

C. Post-*Miranda* Statements to Officer Carroll

Page contends that his post-*Miranda* statements to Officer Carroll were also inadmissible because any *Miranda* waiver made by Page while under the influence of PCP could not have been voluntary. The determination of whether a waiver of *Miranda* rights was knowing, intelligent, and voluntary has two dimensions. (*People v. Combs* (2004) 34 Cal.4th 821, 845.) "'First, the relinquishment of the right must have been

voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. . . .' [Citation.]" (*Ibid*.) For a valid *Miranda* waiver, "[a]ll that is required is that the defendant comprehend 'all of the information that the police are required to convey' by *Miranda*. [Citation.] 'Once it is determined that a suspect's decision not to rely on his rights was uncoerced, that he at all times knew he could stand mute and request a lawyer, and that he was aware of the State's intention to use his statements to secure a conviction, the analysis is complete and the waiver is valid as a matter of law.' [Citation.]" (*People v. Clark* (1993) 5 Cal.4th 950, 987, overruled on other grounds in *People v. Doolin* (2009) 45 Cal.4th 390, 421, fn. 22.)

The prosecution has the burden of establishing a valid waiver of *Miranda* rights by a preponderance of the evidence. (*People v. Whitson* (1998) 17 Cal.4th 229, 248; *People v. Bradford* (1997) 14 Cal.4th 1005, 1034.) Yet as the United States Supreme Court recently stated, the prosecution "does not need to show that a waiver of *Miranda* rights was express. An 'implicit waiver' of the 'right to remain silent' is sufficient to admit a suspect's statement into evidence. [Citation.]" (*Berghuis v. Thompkins* (June 1, 2010, No. 08-1470 __ U.S. __ [2010 U.S. Lexis 4379 at p. *24].) Moreover, "[w]here the prosecution shows that a *Miranda* warning was given and that it was understood by the accused, an accused's uncoerced statement establishes an implied waiver of the right to remain silent." (*Id*. at pp. *25-*26.) In reviewing a claim that a statement was obtained in violation of *Miranda* rights, "'[w]e must accept the trial court's resolution of disputed facts and inferences, and its evaluations of credibility, if they are substantially supported. [Citations.] However, we must independently determine from the undisputed facts, and those properly found by the trial court, whether the challenged statement was illegally obtained.' [Citations.]" (*People v. Bradford*, *supra*, at p. 1033.)

The question of whether a *Miranda* waiver was knowing and voluntary depends on the totality of the circumstances. (*People v. Cruz* (2008) 44 Cal.4th 636, 668.) However, the mere ingestion of drugs or alcohol does not compel the conclusion that

a defendant was incapable of knowingly and intelligently waiving *Miranda* rights. (*People v. Breaux* (1991) 1 Cal.4th 281, 301; *People v. Jackson* (1989) 49 Cal.3d 1170, 1189; *People v. Hendricks* (1987) 43 Cal.3d 584, 591.) Indeed, our Supreme Court "has repeatedly rejected claims of incapacity or incompetence to waive *Miranda* rights premised upon voluntary intoxication or ingestion of drugs, where . . . there is nothing in the record to indicate that the defendant did not understand his rights and the questions posed to him." (*People v. Clark*, *supra*, 5 Cal.4th at p. 988; see also *People v. Breaux*, *supra*, at pp. 300-301 [defendant voluntarily waived *Miranda* rights after hospital staff administered morphine injection where he "appeared to understand the questions, he was responsive, and his answers were prompt, detailed, and pertinent"]; *People v. Jackson*, *supra*, at p. 1189 [defendant made valid *Miranda* waiver despite being under the influence of PCP because "the evidence showed that defendant was able to comprehend and answer all the questions that were posed to him"]; *People v. Hendricks*, *supra*, at p. 591 [defendant's voluntary consumption of alcohol during an interrogation did not reflect "'an impairment of capacity so as to render a confession inadmissible'"].)

Instead, courts have held that where a defendant "has voluntarily ingested alcohol or a controlled substance at some point in time preceding arrest and, taking into account all of the surrounding circumstances, the evidence shows that [the] defendant understood and was able to intelligently respond to police questioning, the reviewing court will find a knowing and intelligent waiver . . . ." (*People v. Loftis* (1984) 157 Cal.App.3d 229, 235.) In *People v. Loftis*, for instance, the defendant argued that his waiver of *Miranda* rights was the involuntary result of his ingestion of PCP rather than the product of his free will. The Court of Appeal rejected the argument, reasoning that while the record disclosed that the defendant was under the influence of PCP, "it also contained evidence he understood the *Miranda* warning." (*Id*. at p. 236.) The critical question for the Court was "whether the accused's abilities to reason, comprehend, or resist were so disabled that he was incapable of free, rational choice." (*Ibid*.) Although the defendant paused for a long time after hearing the officer's questions and slurred his answers, his responses were rational and directed to the questions posed. (*Ibid*.) The totality of circumstances thus supported

a knowing and intelligent waiver of *Miranda* rights. (*Ibid*.; see also *People v. Perdomo* (2007) 147 Cal.App.4th 605, 618 [narcotic pain medications did not render defendant's statement involuntary where each of his "answers [was] appropriate to the question asked"]; *People v. Taylor* (1980) 112 Cal.App.3d 348, 361 [defendant's statements to police were voluntary despite being "heavily under the influence of heroin" because he "never appeared confused and answered directly, coherently and in detail"].)

The evidence in this case was sufficient to support the conclusion that Page's *Miranda* waiver was knowing, intelligent, and voluntary. The record reflects that Officer Morlet advised Page of his *Miranda* rights approximately three hours after Page last ingested any alcohol or PCP, and that Page expressly waived his *Miranda* rights at that time. It is true that during his pre-*Miranda* interview with Officer Morlet, Page's behavior was at times combative and erratic. He forcibly resisted the restraints, made repetitive statements, and slurred his words. However, there was no indication that Page had any difficulty answering Officer Morlet's questions about his relevant medical history, his most recent use of alcohol or drugs, and his recollection of the car accident. Page's answers were rational and responsive to the questions asked. When Officer Morlet advised Page of his *Miranda* rights at the end of the interview, he carefully reviewed each question with Page, made eye contact to ensure Page understood each question, and waited for Page to answer. Officer Morlet did not have to repeat any of his questions and Page responded affirmatively to each question posed.

The testimony of Officer Carroll similarly supports the conclusion that Page was capable of knowingly and voluntarily waiving his *Miranda* rights despite being under the influence of PCP. Officer Carroll began his evaluation of Page approximately 15 minutes after the *Miranda* waiver. As described by Officer Carroll, Page's conduct during the evaluation was cyclical. At times, Page would be combative and talk incoherently, and then become cooperative and calmly answer Officer Carroll's questions. Yet even with Page's erratic behavior, Officer Carroll was able to conduct his evaluation and obtain coherent answers from Page. When Officer Carroll asked Page specifically about his use of PCP, Page initially denied that he had used the drug, but once shown the vial found in

his car, he admitted that it contained PCP and that he had used it that day. While Page's answers were incriminating, they were responsive and relevant to the questions asked. There is nothing in the record to suggest that Page was unable to understand the questions posed to him by the police merely because he was under the influence of PCP.

Page argues that the atmosphere surrounding the advisement of his *Miranda* rights was so intimidating and coercive that he was incapable of making a voluntary waiver. There is no evidence, however, that the officers employed any physical or psychological coercion to elicit a *Miranda* waiver or a confession. (See *People v. Williams* (1997) 16 Cal.4th 635, 659 ["A confession or admission is involuntary, and thus subject to exclusion at trial, only if it is the product of coercive police activity"]; *People v. Perdomo*, *supra*, 147 Cal.App.4th at p. 619 ["Absent some indication of coercive police activity, an admission or confession cannot be deemed involuntary within the due process clause of the Fourteenth Amendment."].) As discussed, the interviews with Officers Morlet and Carroll took place in the public setting of a crowded emergency room. Medical personnel had access to Page while he was in the officers' presence, and the nurses checked on him periodically during his stay. Although Page was restrained while being questioned, the restraints were placed by the hospital staff due to the safety risk that Page posed to the staff. In addition, the officers' inquiries were appropriate and directed at determining whether or not Page was under the influence of PCP. The record is simply devoid of any showing that the officers resorted to coercive activity to obtain Page's *Miranda* waiver or subsequent admissions. Because Page made a valid waiver of his *Miranda* rights, the trial court properly admitted his statements to Officer Carroll.

II. Sufficiency of the Evidence Supporting the Convictions

Page challenges the sufficiency of the evidence supporting his convictions for driving under the influence of alcohol or drugs and possession of a controlled substance. In reviewing the sufficiency of the evidence to support a conviction, "an appellate court reviews the entire record in the light most favorable to the prosecution to determine whether it contains evidence that is reasonable, credible, and of solid value, from which a rational trier of fact could find the defendant guilty beyond a reasonable doubt." (*People*

v. Kipp (2001) 26 Cal.4th 1100, 1128.) We draw all reasonable inferences in support of the judgment and "'"presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence."' [Citation.]" (*People v. Davis* (1995) 10 Cal.4th 463, 509.) We do not, however, reweigh the evidence, resolve conflicts in the evidence, or reevaluate the credibility of witnesses. (*People v. Lewis* (2001) 26 Cal.4th 334, 361; *People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) The test on appeal is not whether we believe the evidence established the defendant's guilt beyond a reasonable doubt, but whether "'*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' [Citation.]" (*People v. Davis*, *supra*, at p. 509.)

A. Driving Under the Influence

Section 23152, subdivision (a) of the Vehicle Code provides that "[i]t is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle." (Veh. Code, § 23152, subd. (a).) "[F]or a defendant to be guilty of *driving* while under the influence of drugs in violation of Vehicle Code section 23152, subdivision (a), '"the . . . drug(s) must have so far affected the nervous system, the brain, or muscles [of the individual] as to impair to an appreciable degree *the ability to operate a vehicle* in a manner like that of an ordinarily prudent and cautious person in full possession of his faculties. [Citations.]"' [Citations.]" (*People v. Canty* (2004) 32 Cal.4th 1266, 1278.) "It is not enough that the drug could impair an individual's driving ability or that the person is under the influence to some detectible degree. Rather, the drug must actually impair the individual's driving ability. [Citation.]" (*People v. Torres* (2009) 173 Cal.App.4th 977, 983.) "[E]vidence of actual impairment may include the driver's appearance, an odor of alcohol, slurred speech, impaired motor skills, slowed or erratic mental processing, and impaired memory or judgment." (*People v. McNeal* (2009) 46 Cal.4th 1183, 1198.)

Page asserts that the evidence was insufficient to establish a violation of Vehicle Code section 23152 because neither Nurse Ortez nor Dr. Mayweather believed Page to be under the influence of PCP at the time of their medical assessments. However, Nurse Ortez admitted that she did not perform any specific tests on Page to determine if he had

used PCP and did not know whether he was under the influence of the drug during the 20 minutes he was in her care. Nurse Ortez simply explained that, apart from his elevated heart rate and blood pressure, Page did not exhibit the symptoms typically associated with a person under the influence of PCP when she evaluated him. Dr. Mayweather likewise testified that when she examined Page, more than five hours after he purportedly used the drug, he did not appear to be under the influence of PCP at that particular time. Neither Dr. Mayweather nor Nurse Ortez had any independent recollection of treating Page and relied solely on their written notes of their brief time with him.

On the other hand, both Officer Morlet and Officer Carroll testified that they observed several symptoms in Page that were consistent with a person under the influence of PCP. Such symptoms included Page's combative and erratic behavior, his bloodshot and watery eyes, his slurred and repetitive speech, his strong chemical smell, his elevated heart rate and blood pressure, and his horizontal and vertical nystagmus. Page also admitted to the officers that the vial found in his car contained PCP and that he had used the drug a few hours earlier. Although Page denied making any such admissions to the officers at trial, the jury clearly found Officers Morlet and Carroll to be more credible. It was for the jury, not this court, to judge the credibility of the witnesses. (*People v. Lewis*, *supra*, 26 Cal.4th at p. 361; *People v. Ochoa*, *supra*, 6 Cal.4th at p. 1206.)

Page argues that even if the evidence was sufficient to support a finding that he was under the influence of PCP at the time of the accident, there was no evidence that he had been driving a vehicle prior to the accident or that the PCP actually impaired his driving ability. We disagree. During his interview with Officer Morlet, Page admitted he was driving his car on the freeway when he fell asleep and crashed into the center divider. Page's admission that he was the driver of the car was also corroborated by circumstantial evidence. When emergency services personnel arrived at the scene, they saw Page walking away from the car in an erratic manner on the carpool lane of the freeway. Page was combative and uncooperative when approached by medical personnel, did not respond to any of their questions, and had to be physically restrained

by several persons until he could be strapped onto an ambulance gurney. There were no other occupants in the car or in the immediate vicinity of the car when the CHP officers arrived. Although Page testified at trial that his friend Coco had been driving his car and then left the scene in another vehicle that stopped for her on the freeway, the jury obviously did not accept Page's elaborate version of events. It was the sole province of the jury "'to determine the credibility of a witness and the truth or falsity of the facts on which that determination depends.' [Citation.]" (*People v. Ochoa*, *supra*, 6 Cal.4th at p. 1206.)

The decisions cited by Page do not compel a different conclusion. In *People v. Torres*, *supra*, 173 Cal.App.4th at p. 984, the Court held that the evidence was insufficient to establish that the defendant's methamphetamine use actually impaired his driving ability because the only evidence of any driving infraction was the defendant's failure to come to a complete stop at the limit line of an intersection. Although the defendant exhibited symptoms of fidgetiness, sweatiness, and an elevated pulse when detained by the police, a toxicologist testified that such symptoms did not necessarily make a person an unsafe driver. (*Id*. at p. 983.) Similarly, in *People v. Davis* (1969) 270 Cal.App.2d 197, the sole evidence offered to show that the defendant was driving under the influence of drugs was that his pupils were constricted when he was stopped by the police after exiting his car. There was no evidence that the defendant had been driving erratically, and the testifying witnesses agreed that his speech, walk, and coordination were all normal. (*Id*. at p. 199.) Because "[t]here was neither expert opinion nor the observation of anyone that defendant lacked the alertness, judgment and coordination which are needed to operate a motor vehicle in a prudent and cautious manner," his conviction for driving under the influence of drugs could not stand. (*Id*. at p. 200.)

Here, on the other hand, there was ample evidence that Page's driving ability was actually impaired by his use of PCP. Page was involved in a solo car accident on the freeway. At the scene of the accident, he was combative, erratic, and non-responsive, requiring emergency services personnel to forcibly restrain him to prevent him from potentially walking into oncoming traffic. Both Officer Morlet and Officer Carroll

testified that, based on their personal observations and the field sobriety tests, it was their opinion that Page was under the influence of PCP. Officer Morlet further opined that Page's use of PCP impaired his ability to operate a motor vehicle, causing him to crash his car into the center median of the freeway. Based on the officers' testimony at trial, substantial evidence supported the jury's verdict that Page was driving under the influence of alcohol or drugs in violation of Vehicle Code section 23152, subdivision (a).

B. Possession of a Controlled Substance

Section 11377 of the Health and Safety Code prohibits the possession of certain controlled substances, including PCP. (Health & Saf. Code, § 11377, subd. (a).) "Unlawful possession of narcotics is established by proof (1) that the accused exercised dominion and control over the contraband, (2) that he [or she] had knowledge of its presence, and (3) that the accused had knowledge that the material was a narcotic. [Citation.]" (*People v. Groom* (1964) 60 Cal.2d 694, 696.) "Possession may be actual or constructive. [Citations.] The accused has constructive possession when he [or she] maintains control or a right to control the contraband. Possession may be imputed when the contraband is found in a location which is immediately and exclusively accessible to the accused and subject to his [or her] dominion and control. [Citations.]" (*People v. Showers* (1968) 68 Cal.2d 639, 643-644.) An inference that the accused exercised dominion and control also may be predicated on evidence that he or she expressed a consciousness of guilt. (*People v. Redrick* (1961) 55 Cal.2d 282, 288-289.) The elements of possession may be proven by circumstantial evidence and any reasonable inferences drawn from that evidence. (*People v. Williams* (1971) 5 Cal.3d 211, 215.)

Page claims that the evidence was insufficient to support his conviction for possession of PCP because it solely established that he was the owner of the car in which PCP was found. In support of this contention, Page relies on cases which stand for the general principle that the mere presence of the defendant with others in a place where contraband is found is not sufficient, standing alone, to justify a conviction for unlawful possession. However, the various state and federal cases cited by Page concerned factual situations in which there was nothing beyond the mere presence in a car or other premises

to connect the defendant to the contraband. (See, e.g., *People v. Van Syoc* (1969) 269 Cal.App.2d 370, 373; *People v. Hancock* (1957) 156 Cal.App.2d 305, 310; *People v. Foster* (1953) 115 Cal.App.2d 866, 868; *United States v. Ramirez* (9th Cir. 1989) 880 F.2d 236, 238; *United States v. Weaver* (9th Cir. 1979) 594 F.2d 1272, 1275.) Here, in contrast, there was substantial evidence to support a finding that Page had dominion and control over the PCP found in his car.

The vial of PCP was found in the center console of the car. Page was the sole registered owner of the car and the only person observed near the scene of the car accident shortly after it occurred. No other persons were observed in the car or in close proximity to the car when officers arrived on the scene. Page's combative behavior immediately following the accident was also consistent with a person under the influence of PCP, as he had to be forcibly restrained while on the freeway so that he would not walk into traffic. When shown the vial of PCP taken from his car, Page admitted to the police that it contained PCP and that he had used the drug that afternoon. It is clear that the jury chose not to credit Page's contrary testimony at trial that the vial belonged to Coco, who was not produced as a witness at trial and was not seen anywhere near the accident shortly after it occurred. Consequently, Page's conviction for possession of PCP was supported by substantial evidence.

III. Motion for Discovery of *Pitchess* Material

Prior to trial, Page made a motion under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 for a review of Officer Morlet's personnel file to determine whether he had any complaints of misconduct. The trial court granted the motion with respect to any allegations of falsifying police reports in the past five years. After reviewing the records at an in camera hearing, the trial court determined that there was no discoverable material. At Page's request, we have reviewed the sealed record of the in camera proceedings. We conclude that the trial court properly exercised its discretion in finding that none of the records reviewed was relevant to Page's case, and therefore, the disclosure of material from Officer Morlet's personnel file was not appropriate. (*People v. Mooc* (2001) 26 Cal.4th 1216, 1229.)

IV. Calculation of Penalty Assessments

Lastly, Page asserts that the trial court erred in calculating the penalty assessments on his sentencing fees. At the sentencing hearing, the court ordered the following fees and penalties: "$50 lab fee is imposed under [Heath and Safety Code section] 11327.5, plus penalty assessments; [and] $150 drug program fee is assessed, plus penalty assessments." The court did not orally pronounce the amounts of the penalty assessments at the hearing, but the abstract of judgment provided for penalty assessments of $120 and a surcharge of $10 on the $50 laboratory analysis fee, and penalty assessments of $360 and a surcharge of $30 on the $150 drug program fee. Page contends, and the Attorney General concurs, that the penalty assessments were incorrectly calculated. The Attorney General argues, however, that Page has forfeited his claim of error on appeal by failing to seek a specific calculation of the penalties assessments at the sentencing hearing. We need not address whether Page has forfeited his claim on appeal because we conclude that the total amounts of penalty assessments were correctly calculated in the abstract of judgment.

The trial court imposed a $50 criminal laboratory analysis fee. (Health & Saf. Code, § 11372.5, subd. (a).) The laboratory analysis fee is a fine (*People v. Martinez* (1998) 65 Cal.App.4th 1511, 1522; *People v. Sanchez* (1998) 64 Cal.App.4th 1329, 1332) which is subject to additional assessments, penalties, and a surcharge. (*People v. Talibdeen* (2002) 27 Cal.4th 1151, 1155; *People v. Turner* (2002) 96 Cal.App.4th 1409, 1413.) The following penalties and surcharge must be assessed on a $50 laboratory analysis fee: a $35 penalty pursuant to Government Code section 76000, subdivision (a)(1); a $10 emergency medical services penalty pursuant to Government Code section 76000.5, subdivision (a)(1); a $15 state court construction penalty pursuant to Government Code section 70372, subdivision (a)(1) (the amount payable in Los Angeles County); a $5 DNA penalty pursuant to Government Code section 76104.6, subdivision (a)(1); a $5 state-only DNA penalty pursuant to Government Code section 76104.7, subdivision (a); a $50 penalty pursuant to Penal Code section 1464, subdivision (a)(1); and a $10 surcharge pursuant Penal Code section 1465.7, subdivision (a). (*People v.*

Castellanos (2009) 175 Cal.App.4th 1524, 1528-1530.) Page's $50 laboratory analysis fee was accordingly subject to a total of $120 in penalty assessments and a $10 surcharge, which is consistent with the amounts listed in the abstract of judgment.

The trial court further imposed a $150 drug program fee. (Health & Saf. Code, § 11372.7, subd. (a).) The drug program fee is a fine that shall be assessed if the defendant has the ability to pay. (*People v. Martinez*, *supra*, 65 Cal.App.4th at p. 1522; *People v. Sierra* (1995) 37 Cal.App.4th 1690, 1695.) Because it is a fine, it is also subject to additional assessments, penalties, and a surcharge. (*People v. Talibdeen*, *supra*, 27 Cal.4th at p. 1153; *People v. Sierra*, *supra*, at pp. 1695-1696.) The following penalties and surcharge apply to a $150 drug program fee: a $105 penalty pursuant to Government Code section 76000, subdivision (a)(1); a $30 emergency medical services penalty pursuant to Government Code section 76000.5, subdivision (a)(1); a $45 state court construction penalty pursuant to Government Code section 70372, subdivision (a)(1) (the amount payable in Los Angeles County); a $15 DNA penalty pursuant to Government Code section 76104.6, subdivision (a)(1); a $15 state-only DNA penalty pursuant to Government Code section 76104.7, subdivision (a); a $150 penalty pursuant to Penal Code section 1464, subdivision (a)(1); and a $30 surcharge pursuant Penal Code section 1465.7, subdivision (a). (*People v. Castellanos*, *supra*, at pp. 1528-1530.) Page's $150 drug program fee was thus subject to a total of $360 in penalty assessments and a $30 surcharge, as correctly provided for in the abstract of judgment.

In their calculations of the penalty assessments, it appears the parties failed to include the emergency medical services penalty mandated by Government Code section 76000.5.[3] As Division Five of this Court has explained, "before the Government Code

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[3] Government Code section 76000.5, subdivision (a)(1) states: "Except as otherwise provided elsewhere in this section, for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, in addition to the penalties set forth in Section 76000, the county board of supervisors may elect to levy an additional penalty in the amount of two dollars ($2) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal

section 76000.5, subdivision (a)(1) penalty assessment is collectable in an individual county, the county supervisors must elect to have it imposed. On March 6, 2007, the Los Angeles County Board of Supervisors adopted a resolution authorizing imposition of the additional Government Code section 76000.5, subdivision (a)(1) penalty assessment. . . . (L.A. County Res., Mar. 6, 2007.)" (*People v. Castellanos*, *supr*a, 175 Cal.App.4th at pp. 1528-1529.) Because the Los Angeles County Board of Supervisors elected to levy the Government Code section 76000.5 penalty, trial courts in Los Angeles County must impose this additional penalty assessment on all applicable fines, including the laboratory analysis and drug program fees. While it would have been preferable for the trial court to state the specific amount and statutory basis for each penalty assessment in the abstract of judgment, the total amounts set forth therein were correctly calculated.

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

WOODS, Acting P. J.

JACKSON, J.

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offenses, including violations of Division 9 (commencing with Section 23000) of the Business and Professions Code relating to the control of alcoholic beverages, and all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code."